

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

JACKSON LEWIS LLP  
One North Broadway, Suite 1502  
White Plains, New York 10601  
(914) 328-0404  
E. Johan Lubbe (EL 5772)  
Michael A. Frankel (MF 9712)  
Counsel for Defendants

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THOMAS J. HUMPHRIES M.D. and ANNIE	:
HUMPHRIES, his spouse,	:
	:
Plaintiffs,	:
	:
- against -	:
	:
FERRING PHARMACEUTICALS, INC.,	:
its President, WAYNE ANDERSON, its	:
Vice President, KENNETH KASHKIN, M.D.,	:
FERRING PHARMACEUTICALS, the	:
parent company, Senior Vice President,	:
GLOBAL CLINICAL RESEARCH AND	:
DEVELOPMENT, DOCTOR PATRICK	:
O'CONNOR, F.R.C.P., Ph.d., and	:
FREDERICK PAULSEN, Chairman/Owner	:
of the privately held Danish parent, FERRING	:
PHARMACEUTICAL,	:
	:
Defendants.	:
----- X	

04 CIV. 9185 (AKH)

AFFIDAVIT OF E. JOHAN LUBBE, ESQ.  
IN SUPPORT OF DEFENDANT'S FED. R. CIV. PRO. 12(b)(6)  
MOTION TO DISMISS

STATE OF NEW YORK                    )  
  ) ss.:  
COUNTY OF WESTCHESTER        )

E. Johan Lubbe, an attorney duly admitted to practice law in the State of New York and before this Court, hereby affirms the truth of the following under penalty of perjury:

1. I am a partner in the law firm of Jackson Lewis LLP, counsel for Defendants in the above-entitled matter.

2. I am fully familiar with the facts and circumstances contained herein, based on a review of the files and records in this matter, and conversations with Defendants.

3. On or about November 19, 2004, Plaintiffs filed a Summons and Complaint in the above-entitled case in the United States District Court for the Southern District of New York. A true and correct copy of the Summons and Complaint is attached hereto as **Exhibit A**.

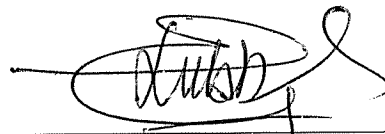
4. This Affirmation is submitted in support of Defendants' Motion to Dismiss pursuant to Fed. R. Civ. Pro. 12(b)(6).

5. Copies of all unreported decisions cited in Defendants' Memorandum of Law are annexed hereto as **Exhibits B (1) through B(7)**.

6. Applying the well-established law in this Circuit to the facts alleged by Plaintiffs, Defendants respectfully ask this Court to enter an Order (1) dismissing Plaintiffs' Title VII, ADEA and tortious interference with contract claims against the individually-named Defendants with prejudice; (2) dismissing Plaintiffs' tortious interference with contract claim in its entirety against all Defendants with prejudice; (3) awarding Defendants' their attorneys' fees and costs incurred in moving to dismiss Plaintiffs' frivolous and vexatious claims; and (4) awarding Defendants such other and further relief as the Court deems just and proper.

7. I have read the above numbered six (6) paragraphs and know them to be true to my knowledge or upon information and belief.

WHEREFORE, for the reasons set forth in Defendants' Memorandum of Law, Defendants respectfully request that this Court grant their motion in its entirety.

A handwritten signature in black ink, appearing to read 'E. Lubbe', written over a horizontal line.

E. Johan Lubbe (EL 5772)

Sworn to before me this  
29<sup>th</sup> day of December, 2004

Patricia Gougelman  
Notary Public

**PATRICIA GOUGELMANN**  
Notary Public, State Of New York  
No. 4901359  
Qualified In Westchester County  
Commission Expires July 27, 2005

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<b>THOMAS J. HUMPHRIES M.D. and ANNIE</b>	:
<b>HUMPHRIES, his spouse,</b>	:
	:
<b>Plaintiffs,</b>	:
	:
<b>- against -</b>	:
	:
<b>FERRING PHARMACEUTICALS, INC.,</b>	:
<b>its President, WAYNE ANDERSON, its</b>	:
<b>Vice President, KENNETH KASHKIN, M.D.,</b>	:
<b>FERRING PHARMACEUTICALS, the</b>	:
<b>parent company, Senior Vice President,</b>	:
<b>GLOBAL CLINICAL RESEARCH AND</b>	:
<b>DEVELOPMENT, DOCTOR PATRICK</b>	:
<b>O’CONNOR, F.R.C.P., Ph.d., and</b>	:
<b>FREDERICK PAULSEN, Chairman/Owner</b>	:
<b>of the privately held Danish parent, FERRING</b>	:
<b>PHARMACEUTICAL,</b>	:
	:
<b>Defendants.</b>	:
-----X	

The undersigned hereby certifies that a true and correct copy of Defendants' Memorandum Of Law In Support Of Fed. R. Civ. P. 12(b)(6) Motion To Dismiss has been served upon Plaintiff by delivering a copy of the same, via regular U.S. Mail, postage pre-paid, this 29<sup>th</sup> day of December, 2004, to:

E. Johan Lubbe